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FROM: KATHRYN LAPPEGARD

RE: U.S. PATENT APPLICATION SERIAL NO. 10/042,894
ATTORNEY DOCKET NO. 1286

DATE: 03/11/04 FAX NUMBER: (703) 872-9306

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| | |
|----------------------|-----------------|
| Application Number | 10/042,894 |
| Filing Date | 01/09/2002 |
| First Named Inventor | Jinrui Shi |
| Art Unit | 1638 |
| Examiner Name | Baum, Stuart F. |

Attorney Docket Number

1286

ENCLOSURES (check all that apply)

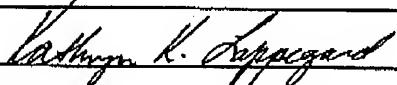
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm
or
Individual name

Kathryn K. Lappegard

Signature

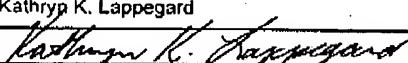


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MAR 11 2004

FICIAL

First Named Inventor : Jinrui Shi
Application Number : 10/042,894
Filing Date : 01/09/2002
Title : Novel Inositol Polyphosphate Kinase Genes and
Uses Thereof
Group/Art Unit : 1638
Examiner : Baum, Stuart F.
Attorney Docket Number : 1286

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This response is responsive to the Office Action mailed February 13, 2004.

Applicant elects with traverse claims 1-4, 6-11, and 13-21 of Group I, and one DNA sequence, drawn to an isolated nucleic acid in sense orientation, vector, host cell, transgenic plant and method for modulating inositol. Applicant hereby provisionally elects the DNA sequence represented by SEQ ID NO: 7 and the corresponding amino acid sequence represented by SEQ ID NO: 8.

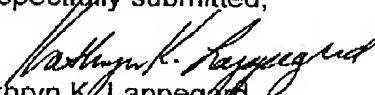
Applicant respectfully reminds the Examiner that the one nucleotide sequence per application rule, 37 CFR 1.141et seq., is partially waived by the Commissioner. MPEP 803.04 states "Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, The Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 et seq. and permit a reasonable number of such nucleotide sequences to be claimed in a single application." The MPEP goes on to state "[A]ccordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

Serial No. 10/042,894
Group Art Unit: 1638

The isolated nucleic acids recited in Claim 1 do not constitute independent and distinct inventions. The nucleic acids have all been isolated by the same primer pairs: SEQ ID NOS: 26 and 27 (see specification, page 15, lines 1-2) from different maize lines (the specification, page 39, line 9) and have the same function (see the specification, page 21, lines 16 - 20). Therefore, applicant believes that the isolated nucleic acids of Claim 1 should be examined in a single application, and not be subject to restriction.

It is not believed that an extension of time or fees are required. However, in the event that additional extensions of time are necessary to allow consideration of the paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,


Kathryn K. Lappégaard
Agent for Applicants
Registration No. 46,857

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